Court No.1

Civil Misc. Writ Petition No.378 (M/S) of 2001
(Old No.48969 of 2000)

Madho Singh ..... Petitioner.

Versus

Board of Revenue & Ors. ..... Respondents.

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Hon'ble P.C.Verma,J.

This writ petition has been filed by the petitioner seeking writ of certiorari to quash the order dated 02.9.2000, passed by Respondent No. 1 Board of Revenue in Second Appeal No.1 of 1998-99/ District-Nainital, by which the Board of Revenue has remanded the case to the trial court, for consideration of certain documentary evidence, which were not taken into account at the dismissal of the suit.

Learned counsel for the petitioners submits that the suit was filed by two plaintiffs, namely, Bhagwat Sharan and Khushi Ram in the trial Court but the appeal was contested by plaintiff Khushi Ram alone and it was not contested by another plaintiff Bhagwat Sharan. Therefore, if any benefit is available in the remand order, it will be available only to Khushi Ram. Since the Suit was itself withdrawn by Bhagwat Sharan at the trial stage, therefore the remand order in any manner will not entitle Bhagwat Sharan to contest the matter after remand and the plots in respect of which Bhagwat Sharan entered into compromise, will not be subject matter of the trial after remand of the case by the Board of Revenue and the suit shall now be contested by Khushi Ram alone.

Subject to above, the writ petition is dismissed. No order as to costs.

(P.C.Verma,J.)

23.8.2001
P.Singh